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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,923	01/19/2000	Jerome Swartz	467XXB	3738

23704 7590 01/28/2002

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LEGAL DEPARTMENT
ONE SYMBOL PLAZA
HOLTSVILLE, NY 11742

EXAMINER

ST CYR, DANIEL

ART UNIT PAPER NUMBER

2876

DATE MAILED: 01/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/487,923

Applicant(s)

SWARTZ ET AL.

Examiner

Daniel St.Cyr

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10 and 39-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10 and 39-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. The request filed on 10/25/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/487,923 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 10, 39-43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsen [5,250,789, reference supplied by the applicants] in views of Shah et al. [5,428,546] and Keller [4,771,840].

Re claims 10, 39-43, and 45, Johnsen teaches a vehicle cradle for housing a portable terminal in a vehicle used to deliver items to a destination address [Fig. 1, area above 12], said cradle comprising: a housing for securing/removing the portable terminal [Fig. 1, area above 12];

a power management system for delivering power to the portable terminal when secured to the housing [Fig. 2, 36; Fig. 3, 44; col. 7, lines 35+]; a communication port for communicating data from the vehicle cradle to the portable terminal [Fig. 2, 34; Fig. 3, 34; col. 7, lines 41+]; a rechargeable power supply and a power receptacle 36 for charging batteries [Figs. 2 and 3, 36 and 44; col. 7, lines 35+]; an antenna transmitter for transmitting a set of transmission signals received from the portable terminal over a communication port [Fig. 3, 40, 48; col. 7, lines 41+]; the communication port is a wireless communication transceiver [Fig. 3, 40, 48; col. 7, lines 55+].

Johnsen fails to teach a wide area GPS network system locator coupled to said communication port for generating a location signal and transmitting said signal to the portable terminal, whereby the location of the vehicle is transmitted to the portable terminal by the vehicle cradle.

Shah teaches an apparatus for tracking vehicle location using wide area GPS network system [Fig. 7, 702; col. 4, lines 67+].

In view of Shah's disclosures, it would have been obvious to an artisan at the time the invention was made to integrate the notoriously old and well known wide area GPS network system into the teachings of Johnsen due to the fact that the use of such device would make the system more versatile, and allow the system to track the location of the vehicle, and provide faster links and access with other peripheral equipment attached to the central computer and thus allow the system to know what kind of sales merchandise may be in the vicinity and alert the user to avail to the specials that may be on sale. Accordingly, such modification would have been an obvious extension as taught by Johnsen. Therefore, it would have been an obvious expedient.

Johnsen as modified by Shah fails to disclose a motorized vehicle.

Keller discloses a power driven shopping cart, which includes an electric motor and a drive unit 40 (see figure 1; col. 2, line 10+).

In view of the disclosure of Keller, it would have been obvious for an ordinary skill in the art at the time the invention was made to modify the system of Johnsen as modified by Shah by including a motor for propelling the cart. Such modification would eliminate the stress and strain of pulling or pushing a load of personal items. Therefore, it would have been an obvious expedient.

4. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnsen [5,250,789, reference supplied by the applicants] as modified by Shah et al. [5,428,546] and Keller [4,771,840] and further in view of Vogelmann et al. [5,264,822]. The teachings of Johnsen as modified by Shah and Keller have been discussed above.

Johnsen as modified by Shah and Keller fails to teach a vehicle cradle wherein the wireless communication port is an infra-red communication transceiver.

Vogelman et al teach a system for transmitting audio advertising message to shopping cart carts moving through spatially defined transmission zones arranged in a store using infra-red transmitter device [Figs. 1-4, col. 5, line 35+].

In view of Vogelmann et al's disclosures, it would have been obvious to an artisan at the time the invention was made to integrate the notoriously old and well known infra-red device into the teaching of Johnsen as modified by Shah and Keller due to the fact that the use of such device would make the system more versatile by allowing a communication link that is free from RF interference and thus makes the link more reliable. Accordingly, such modification would

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have been an obvious extension as taught by Johnsen as modified by Shah and Keller. Therefore, it would have been an obvious expedient.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dumont, US patent No. 5,540,301, discloses an automated bulk self-checkout station apparatus. Campo et al, US patent No. 6,138,914, disclose a portable bar code scanner apparatus.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr
Examiner
Art Unit 2876

DS
January 24, 2002

